

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

FRANCES GECKER, Solely as)
Chapter 7 Trustee for CYNTHIA)
COLLINS) Case No.
)
Plaintiff,) (Removed from the Circuit
vs.) Court of Cook County, Illinois
) Case No. 2016 L 004126)
MENARD, INC., a/k/a MENARDS,)
) JURY DEMAND
Defendant.)

NOTICE OF REMOVAL

NOW COMES the Defendant, MENARD, INC., by and through its attorneys, W. ANTHONY ANDREWS of OTTOSEN, BRITZ, KELLY, COOPER GILBERT & DINOLFO, LTD., pursuant to 28 U.S.C. §§ 1332 and 1441, file this notice of removal of the above captioned matter from the Circuit Court of Circuit, Cook County, Illinois, under Case Number 2016 L 004126 to this Honorable Court.

In support of this Notice the Defendant states the following:

JURISDICTION

1. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332(a)(1), and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(a) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs because the Plaintiff is a citizen of Illinois; and the Defendant MENARD, INC. is a Wisconsin Corporation. Plaintiff is asking for damages in excess of \$50,000 from the Defendant for serious personal injuries.

STATEMENT OF FACTS

2. On April 25, 2016, an action was commenced in the Circuit Court of Cook County, Illinois, entitled Francis Gecker, solely as Chapter 7 Trustee for Cynthia Coleman, Plaintiff, vs. Menard, Inc., a/k/a Menards, Defendant case number 2016 L 004126.

3. Defendant was served with summons on May 2, 2016, and received a copy of Plaintiff's complaint on the same date. As a result, this Notice is filed within the time required by law.

4. A copy of all process, pleadings and orders served upon defendant in the state court action are attached hereto as **Exhibit A**.

5. This Notice for Removal is timely made under 28 U.S.C. § 1446(b). Not more than 30 days have passed since service of the Complaint on the Defendant which enabled Defendant to ascertain that this case was removable.

BASIS FOR REMOVAL

6. Removal of a civil action is allowed under 28 U.S.C. § 1441 by a Defendant who is sued on a claim or right that has original jurisdiction in the federal district court.

7. This claim is removable based on 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000 and there is complete diversity of citizenship between the Plaintiff and the Defendant. The action is within the subject matter jurisdiction of this Court.

8. At the time which this action commenced, Plaintiff was, and continues to be, a citizen of the State of Illinois.

9. At the time which this action commenced, Defendant Menard, Inc. was, and continues to be, a corporation incorporated under the laws of Wisconsin, having its

principal place of business in the State of Wisconsin at 5101 Menard Drive, Eau Claire, Wisconsin 54703.

10. Defendant is informed and believes that plaintiff, Cynthia Collins, was, and still is, a citizen of the State of Illinois. Defendant Menard, Inc. was at the time of the filing of this action, and still is, a citizen of the State of Wisconsin, having its principle place of business in the State of Wisconsin.

11. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs because Plaintiff has alleged damages in excess of \$50,000 from the Defendant, for injuries Plaintiff describes as severe along with pain and suffering. Further, Plaintiff's counsel noted that Plaintiff is currently seeking to recover medical specials over \$400,000, including the costs of two hip surgeries, during initial conversations between the parties. In addition, without even starting discovery in this matter, the Plaintiff has provided an extensive amount of medical records (approximately 3") allegedly related to her injury.

12. Plaintiff is additionally represented by her Chapter 7 Bankruptcy Trustee, Francis Gecker, as Plaintiff has a bankruptcy matter pending in this federal court.

COMPLIANCE WITH REMOVAL PROCEDURES

13. The Defendant has complied with all of the procedural requirements for removal set forth in 28 U.S.C. § 1446. As noted above, the notice of removal is being filed within 30 days of the service of the lawsuit.

14. Notice of this removal is being provided to Plaintiff, through their attorneys of record and the Circuit Court of Cook County, Illinois.

15. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the Circuit Court of Cook County, Illinois, in Case No. 2016 L 004126.

WHEREFORE, for the foregoing reasons, Defendant Menard, Inc. removes this action from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Western Division, and respectfully requests that the Court exercise jurisdiction over this matter.

Respectfully submitted,

Menard, Inc.

Dated: May 27th, 2016

By: /s/ W. Anthony Andrews
One of its attorneys

W. Anthony Andrews
ARDC: 6217267
Ottosen, Britz, Kelly, Cooper
Gilbert, & DiNolfo Ltd.
1804 N. Naper Blvd; Suite 350
Naperville, IL. 60563
630-682-0085

STATE OF ILLINOIS)
) SS.
COUNTY OF DUPAGE)

I, W. ANTHONY ANDREWS, do hereby certify, and having been first duly sworn upon oath do hereby state, that I have read the above and foregoing Notice of Removal, by me subscribed as signatory for MENARD, INC., and the same is true and correct to the best of my knowledge and belief.

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

SUBSCRIBED and SWORN to before
me this 27th day of May, 2016.

/s/ Andrea Mangialardi
NOTARY PUBLIC

ARDC: 6217267
W. Anthony Andrews
ARDC: 6206823
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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2016, I filed the foregoing ***Notice of Removal*** with the Clerk of the U.S. District Court, Western Division, and I hereby certify I have mailed by United States Postal Service, the documents to the following:

TO: CUDA LAW OFFICES, LTD.
6525 W. North Avenue - #204
Oak Park, IL 60403

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

ARDC: 6217267
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